

BEFORE THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
STATE OF CALIFORNIA

In the Matter of:)	OAH No. N2001030641
)	
CASON BAUGH, PROPERTY OWNER,)	AGENCY NO. 2000-108AC
)	
RE: CLEAR CREEK AUTO WRECKERS)	WTF No. 45-TI-0082
WASTE TIRE SITE)	

ADMINISTRATIVE DECISION PURSUANT TO STIPULATION

Pursuant to that certain "Stipulation for Issuance of Administrative Decision" dated May 11, 2001, entered into by and between Complainant CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD (the "CIWMB") and Respondent CASON BAUGH ("BAUGH"), and good cause appearing therefore, the following Stipulated Factual Findings and Conclusions of Law are made, and the following Stipulated Order is issued:

STIPULATED FACTUAL FINDINGS

1. The CIWMB has authority to inspect, permit, regulate and conduct enforcement actions against Waste Tire Facilities (WTFs) within the State of California under PRC section 42800 et seq. and attendant regulations contained in Title 14 of the California Code of Regulations (CCR).

2. CASON BAUGH, PROPERTY OWNER and President of Clear Creek Auto Wreckers, Inc., a California Corporation, Operator, was responsible for the waste tires which had been stored at his property, located at 17091 Clear Creek Road, Redding, Shasta County,

1 California (the "CLEAR CREEK AUTO WRECKERS WASTE TIRE SITE"). This site is not a
2 permitted WTF.

3 3. On November 10, 1994, Brad Williams of the CIWMB conducted a waste tire facility
4 inspection of the CLEAR CREEK AUTO WRECKERS WASTE TIRE SITE and documented
5 violations of 30 PRC 42823 (misnumbered in Inspection Report) - Operator Authorized by WTF
6 Permit, Title 14 CCR sections 17351- Fire Prevention Measure, 17353- Vector Control
7 Measures, 17354- Waste Tire Storage Standards, and 18423- Filing of Waste Fire Facility
8 Application.

9 4. A "Letter of Violation" dated November 14, 1994, was addressed and posted by
10 U.S. Mail by Brad Williams, CIWMB, to BILL CUMMINGS JR., an employee of Clear Creek
11 Auto Wreckers, Inc., operator, with a carbon copy to CASON BAUGH, PROPERTY OWNER
12 and President of Clear Creek Auto Wreckers, Inc. This letter states that the site is violating Title
13 14 CCR Sections 17351, 17353, 17354, and 18423. The Inspection report accompanying this
14 letter further documents that the site is storing approximately 7,000 waste tires on site. This
15 letter requested that a Corrective Action Plan (identifying the necessary steps to comply with
16 statute and regulation) be submitted to the CIWMB by January 13, 1994. No Plan was ever
17 received.
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19 5. On June 9, 1995 it was reported to Mr. Williams of the CIWMB by Dale Stultz,
20 Shasta County Environmental Health Department that all the tires had been removed from this
21 site. Consequently, CIWMB took no further enforcement action.

22 6. On March 21, 2000, Terry Smith of the CIWMB conducted a waste tire facility
23 inspection of the property directly behind CLEAR CREEK AUTO WRECKERS WASTE TIRE
24 SITE and documented violations of 30 PRC 42834 (misnumbered in Inspection Report) -
25 Operator Authorized by WTF Permit, Title 14 CCR sections 17351- Fire Prevention Measure,
26 17352 – Facility Access and Security, 17353- Vector Control Measures, 17354- Waste Tire
27 Storage Standards, and 18423- Filing of Waste Fire Facility Application. This inspection was
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1 prompted by a California Highway Patrol annual surveillance, which detected and photographed
2 waste tires and reported the storage of those tires to the CIWMB.

3 7. A "Letter of Violation" dated May 3, 2000 was addressed and posted by U.S.
4 Mail by Terry Smith, CIWMB, to CASON BAUGH, PROPERTY OWNER and President of
5 Clear Creek Auto Wreckers, Inc. This letter states that the site is violating Title 14 CCR
6 Sections 17351, 17352, 17353 and 17354. The Inspection report accompanying this letter further
7 documents that the site is storing approximately 2,000 waste tires on site. This letter requested
8 that the tires be removed from the premises by June 13, 2000.

9 8. This site continued to store approximately 2,000 waste tires on site and was in
10 violation of Title 14 CCR Sections 17351 - Fire Prevention Measures, 17352 – Facility Access
11 and Security, 17353 - Vector Control, 17354 - Storage of Waste Tires, and 30 PRC 42834 -
12 Operator Authorized by WTF Permit. This was confirmed through a site visit conducted by
13 Terry Smith of the CIWMB on June 22, 2000. The conditions observed during that visit are
14 reflected in a Waste Tire Facility State Visit Report.

15 9. Clean Up & Abatement Order No. 2000-66 dated July 25, 2000, was issued by
16 CIWMB to CASON BAUGH, PROPERTY OWNER, to remove all waste tires from this
17 location by September 30, 2000. Copies of destination receipts and Waste Tire Manifests were to
18 be submitted to the CIWMB on or before October 7, 2000.

19 10. On November 2, 2000, Terry Smith of the CIWMB conducted a site visit of this
20 location and determined that approximately 2,000 waste tires were still located on site.

21 **STIPULATED CONCLUSIONS OF LAW**

22 11. CASON BAUGH, PROPERTY OWNER and President of Clear Creek Auto
23 Wreckers, Inc., violated Title 14 CCR Section 18420, which requires that the operator of a WTF
24 obtain a permit from the CIWMB. Mr. BAUGH did not have a WTF permit issued by the
25 CIWMB.

26 12. CASON BAUGH, PROPERTY OWNER and President of Clear Creek Auto
27 Wreckers, Inc., violated Title 14 CCR Section 17351 -- Fire Prevention Measures, which list
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1 specific equipment and water supply that must be available at a WTF. Mr. BAUGH did not have
2 the equipment or water supply on site required by this section.

3 13. CASON BAUGH, PROPERTY OWNER and President of Clear Creek Auto
4 Wreckers, Inc., violated Title 14 CCR Section 17352 -- Facility Access and Security, which list
5 specific measures for the prevention of unauthorized entry at a WTF. Mr. BAUGH did not have
6 adequate measures as required by this section.

7 14. CASON BAUGH, PROPERTY OWNER and President of Clear Creek Auto
8 Wreckers, Inc., violated of Title 14, CCR Section 17353 -- Vector Control Measures, which lists
9 requirements for the prevention of breeding and harborage of mosquitoes, rodents and other
10 vectors at a WTF. Mr. BAUGH did not comply with these requirements.

11 15. CASON BAUGH, PROPERTY OWNER and President of Clear Creek Auto
12 Wreckers, Inc., violated Title 14 CCR Section 17354 -- Storage of Waste Tires, which lists the
13 requirements for the safe storage of waste tires at a WTF. Mr. BAUGH had not complied with
14 these requirements.

15 16. CASON BAUGH, PROPERTY OWNER and President of Clear Creek Auto
16 Wreckers, Inc., violated Clean Up & Abatement Order No. 2000-66, issued to him by the
17 CIWMB on July 25, 2000. Clean Up & Abatement Order No. 2000-66 directed Mr. BAUGH to
18 remove all waste tires by September 30, 2000. Copies of destination receipts and Waste Tire
19 Manifests were to be submitted to the CIWMB on or before October 7, 2000. CASON BAUGH
20 did not comply with these requirements.

21 17. CASON BAUGH, PROPERTY OWNER and President of Clear Creek Auto
22 Wreckers, Inc., is liable for civil penalties as set forth in Public Resources Code section 42850
23 (b). Under this section, liability may be imposed in an administrative action. Pursuant to Public
24 Resources Code section 42846.5, the imposition of penalties herein may form the basis for a
25 subsequent Board order permitting the Board or its contractors access to the property mentioned
26 herein to perform cleanup, abatement or remedial work under section 42846.

27 18. The CIWMB's authority to assess civil penalties against CASON BAUGH,
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1 PROPERTY OWNER and President of Clear Creek Auto Wreckers, Inc., is set forth in PRC
2 section 42850.1(b)(1), which states:

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4 "Any person who intentionally violates any provision of this chapter, or any permit, rule,
5 regulation, standard, or requirement issued or adopted pursuant to this chapter is liable
6 for a civil penalty not to exceed ten thousand dollars (\$10,000) for each violation of a
7 separate provision or, for continuing violations, for each day that violation continues."

8 Under this section, CASON BAUGH, PROPERTY OWNER and President of Clear
9 Creek Auto Wreckers, Inc., is subject to a separate civil penalty of up to \$10,000.00 for each day
10 CLEAR CREEK AUTO WRECKERS WASTE TIRE SITE is in violation of each requirement
11 listed above.

12 19. In setting an appropriate civil penalty, the CIWMB has taken into consideration
13 the nature, extent and gravity of the violations, and the complete disregard of applicable statute
14 and regulation on CASON BAUGH'S behalf.

15 **ADMINISTRATIVE DECISION BASED UPON STIPULATED FACTUAL FINDINGS**
16 **AND STIPULATED CONCLUSIONS OF LAW**

17 Pursuant to the Stipulated Factual Findings and Stipulated Conclusions of Law, and good
18 cause appearing therefore, the following Administrative Decision is hereby issued in this
19 proceeding:

20 Respondent CASON BAUGH shall pay a monetary penalty of Fourteen Thousand and
21 Fifty Dollars (\$14,050.00) to the California Integrated Waste Management Board. Said
22 Respondent shall pay interest at the legal rate, plus reasonable attorney's fees and other costs of
23 collection, commencing on the date the CIWMB converts this Decision into a Judgment.

24 Dated: May 14, 2001

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27 Jaime R. Roman
28 Administrative Law Judge
Office of Administrative Hearings